

Application No.: 10/764,589Docket No.: 2038-323REMARKS

Applicants appreciate the Examiner's thorough review of the present application, and respectfully request reconsideration in light of the preceding amendments and the following remarks.

Claims 1-20 are pending in the application. Original claims 1-7 remain unchanged notwithstanding the Examiner's rejections. New claims 8-20 have been added to provide Applicants with the scope of protection to which they are believed entitled. The Abstract has been revised to be compliant with commonly accepted US patent practice. No new matter has been introduced through the foregoing amendments.

The objection to the Abstract is believed overcome in view of the above amendments.

The 35 U.S.C. 102(b) rejection of claims 1-4 and 6-7 as being anticipated by *EP '193* is traversed, because the applied reference does not fairly teach or disclose each and every element of the rejected claims, especially the limitation of independent claim 1 that "said second elastic members having . . . free portions . . . secured neither to said base sheet nor to said panel." The language found in paragraph 4 of the Office Action does not specify with reasonable clarity how the applied reference teaches the above highlighted limitation. It is noted that the Examiner reads elements 20a, 20b in FIG. 1 of *EP '193* on the claimed fixed portions. However, it is unclear as to what element of *EP '193* is regarded by the Examiner as the claimed free portions. If it is the Examiner's intent to read elements 14a, 14b (FIG. 1 of *EP '193*) on the claimed free portions, Applicants respectfully submit that the reference does not disclose that elements 14a, 14b are secured neither to said base sheet nor to said panel in the presently claimed manner. If it is the Examiner's intent to read another element of *EP '193* on the claimed free portions, the Examiner is kindly asked to identify such elements using reference numerals of *EP '193* and/or provide an annotated drawing explaining his reading of the reference, so that the rejection may be properly

Application No.: 10/764,589Docket No.: 2038-323

understood and responded to. The Examiner's cooperation would be highly appreciated.

Still with respect to independent claim 1, Applicants respectfully submit that the applied reference does not fairly teach or disclose each and every element of the rejected claims, especially the limitation of independent claim 1 that "said free portions of said second elastic members and said leg-surrounding elastic members . . . **not secured together at crossover points** of these elastic members." The language found in paragraph 4 of the Office Action does not specify with reasonable clarity how the applied reference teaches the above highlighted limitation. Clarification is respectfully requested.

For any of the above advanced reasons, the 35 U.S.C. 102(b) rejection of claims 1-4 and 6-7 is deemed inappropriate and should be withdrawn.

The 35 U.S.C. 103(a) rejection of claim 5 as being obvious over EP '193 in view of EP '194 should also be withdrawn for at least the reasons advanced with respect to claim 1 from which claim 5 depends.

New independent claim 8 is directed to a pants-type disposable wearing article, comprising, among other things, a plurality of second elastic members each having opposite end portions secured to said base sheet, and a middle portion **free of direct attachment to both said base sheet and said liquid-absorbent panel**; wherein the middle portions of said second elastic members cross over said first elastic members and are **not secured** to said third elastic members at crossover points of said second and third elastic members. The applied references, especially EP '193, do not fairly teach or suggest the highlighted limitations of claim 8 for at least the reasons advanced above with respect to claim 1.

Claims 9-20 depend from claim 8, and are considered patentable at least for the reason advanced with respect to claim 8. Claims 9-20 are also patentable on their own merits since these claims recite other features of the invention neither disclosed, taught nor suggested by the applied

**Application No.: 10/764,589****Docket No.: 2038-323**

art.

For example, as to claim 9, the applied references do not fairly teach or suggest the claimed **relaxed state** in which the middle portions of said second elastic members are allowed to contract to a transverse dimension which is substantially the same as or slightly larger than a transverse dimension of said panel as measured between the transversely opposite side edges thereof.

As to claims 10-12 and 17, the applied references do not fairly teach or suggest that the second elastic members is **entirely** free of direct attachment to said base sheet except at the opposite end portions.

As to claims 13-16, the applied references do not fairly teach or suggest the claimed **bonding spots**.

As to claims 18-20, the applied references do not fairly teach or suggest that the claimed adhesive zones bonding said first and second sheets and end portions of said third elastic members together; each of said **adhesive zones** being disposed between the middle portions of one pair of adjacent said second elastic members, and between said panel and one of the end portions of each of said second elastic members in said pair. The claims find support at least at elements 33 in FIGs. 2-3 of the instant application.

Each of the Examiner's rejections has been traversed. Accordingly, Applicants respectfully submit that all claims are now in condition for allowance. Early and favorable indication of allowance is courteously solicited.

The Examiner is invited to telephone the undersigned, Applicant's attorney of record, to facilitate advancement of the present application.

Application No.: 10/764,589Docket No.: 2038-323

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 07-1337 and please credit any excess fees to such deposit account.

Respectfully submitted,

**LOWE HAUPTMAN & BERNER, LLP**

  
Benjamin V. Hauptman  
Registration No. 29,310

USPTO Customer No. 22429  
1700 Diagonal Road, Suite 310  
Alexandria, VA 22314  
(703) 684-1111 BJH/KL/klb  
(703) 518-5499 Facsimile  
Date: December 6, 2005

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571-273-8300  
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